IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

DANIEL LEE LOPEZ,	§	
	§	
Petitioner,	§	
v.	§	CIVIL ACTION NO. C-12-160
	§	
RICK THALER,	§	
Director, Texas Department of	§	
Criminal Justice, Correctional	§	
Institutions Division	§	
	§	
Respondent.	§	

ORDER

Before the Court is Daniel Lee Lopez's "Motion for Waiver of Federal Appeal(s)." (D.E. 14). In order to protect Lopez's due process rights, the Court must determine whether he is mentally competent to waive collateral review of his capital conviction and death sentence. Pursuant to the recommendation of the parties, **IT IS ORDERED** that Lopez be examined by **Dr. Timothy James Proctor, 11882 Greenville Avenue Suite 107, Dallas, Texas 75243**, whom the Court finds to be a licenced and qualified psychologist. Dr. Proctor will determine whether Lopez is competent to waive federal habeas review, evaluating (1) whether he "has capacity to appreciate his position and make a rational choice with respect to continuing or abandoning further litigation" or (2) "whether he is suffering from a mental disease, disorder, or defect" which may substantially affect his capacity, such that it prevents him from understanding his legal position and the options available to him and prevents him from making a rational choice among his options. *Wilcher v. Anderson*, 188 F. App'x 279, 281 (5th Cir. 2006) (quoting *Rees v. Peyton*, 384 U.S. 312, 314 (1966)); *see also Mata v. Johnson*, 210 F.3d 324, 328 (5th Cir. 2000); *Rumbaugh v. Procunier*, 753 F.2d 395, 396 (5th Cir.
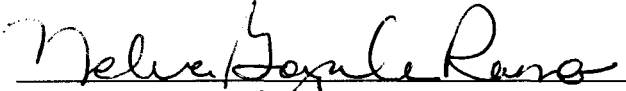
1985).

The Court **ORDERS** that the warden of the Polunsky Unit, or whosoever may have custody

of Lopez, shall permit Dr. Proctor to visit and examine Lopez for the purpose of this competency

evaluation.

Dr. Proctor shall, within a reasonable time of conducting the examination discussed above,

provide all parties and the Court with a written report describing his findings upon examination of

Lopez.

The Clerk will deliver a copy of this Order to the parties and to Dr. Timothy James Proctor.

ORDERED this 26 day of April, 2013.

NELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE